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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,298	06/20/2003	Julian N. Nikolchev	016355-002580US	6671

7590 03/18/2008  
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EXAMINER
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BROWN, MICHAEL A

ART UNIT	PAPER NUMBER
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3772

MAIL DATE	DELIVERY MODE
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03/18/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/600,298

Applicant(s)

NIKOLCHEV ET AL.

Examiner

Michael Brown

Art Unit

3772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 12-19, 35 and 36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-19 and 35-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 8/15/07
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

### DETAILED ACTION

**Note:** During a final review of this case, prior art was found that provides a rejection of the claims as set forth below.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12-19 and 35-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaplan '348 in view of Mariant '027, along with Phelps '259.

Kaplan discloses in figures 1-6C a device for treating an enlarging body lumens that anticipates a contraceptive comprising a tubular member 4, having a first end and a second end (fig. 1A), a lumen 12, extending therein, which is expandable in the body lumen from a first configuration with a first transverse dimension to a second larger configuration with a second larger dimension (col. 3, lines 11-16), a fibrous member (14, 16), made of polymeric material (col. 11, lines 18-21), the fibrous member is woven strands (col. 7, lines 30-33), of biocompatible material (col. 11, lines 18-20), connected to the tubular member (fig. 1B), the fibrous material is disposed within the lumen (fig. 1B), in a plurality of section (fig. 1A), the tubular member expands from a first configuration to a second larger configuration by release of radially compressive force, the tubular member is configured to promote epithelialization (col. 7, lines 52-66) and tissue growth (col. 7, lines 52-66) and a catheter (col. 10, lines 35-38) used to insert the

tubular member into a body lumen. However, Kaplan doesn't disclose the fibrous material being a mesh member. Mariant teaches in figures 1-6 an occlusion device comprising fibers 12 that are in bundles (col. 5, lines 12-16) and the fibers permit tissue growth (col. 5, lines 45-51). Phelps teaches in figures 1-6C a fibrous member that is a mesh 130. It would have been obvious to one having ordinary skill in the art at the time that the invention was made that the fibers as taught by Mariant and could be substituted for the fibers disclosed by Kaplan in order to permit tissue growth into the tubular member. The fibers could be formed as a mesh as taught by Phelps. The fibrous mesh as taught by Phelps could be used to increase tissue growth around and inside of the tubular member. The openness of the mesh and the material being nylon as taught by Mariant will permit tissue to grow into the tubular member. The tubular member disclosed by Kaplan can be inserted into any body lumen including a fallopian tube. The mesh member would epithelialize to occlude the body lumen.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Brown whose telephone number is 571-272-4972. The examiner can normally be reached on 5:30 am-4:00 pm Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on 571-272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael A. Brown/  
January 5, 2008